

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

R.S.A.No.4319 of 2004

Date of Decision : 26.07.2007

Rajbir and others

.....Appellants

versus

Ratti Ram and others

.....Respondents

CORAM : HON'BLE MR.JUSTICE HEMANT GUPTA

Present: Mr.H.S.Hooda, Senior Advocate with
Mr.Harmandeep Singh, Advocate for the appellant.

Mr.C.R.Dahiya, Advocate for respondent No.1.

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JUDGMENT

HEMANT GUPTA, J. (Oral)

The defendants are in second appeal aggrieved against the judgment and decree passed by the Courts below whereby suit of possession of the portion marked by the letters A E F D in the site plan filed by the plaintiffs in respect of Khasra No.5934, was decreed.

It is the case of the plaintiff that he is the owner of the aforesaid Khasra No. over which the defendants have encroached upon and raised construction.

It has been found by the learned First Appellate Court that the Naib Tehsildar has carried out the demarcation and as per his report, there is encroachment on Khasra No.5934. The dimensions and the boundaries of Khasra No.5934 tally with the boundaries mentioned in the plaint. Thus, it was found that the defendants-appellants have taken forcible possession of

the suit property which belongs to the plaintiff-respondent. The possession of the appellant Man Singh was found to be unauthorized and liable to be removed.

The entire dispute between the parties was in respect of demarcation of the property. The demarcation has been carried out by the Naib Tehsildar and it has been found that there is encroachment by Man Singh on the plot owned by the plaintiff. Such finding is sought to be disputed by the appellant by re-appreciation of evidence. It could not be pointed out that the finding recorded by the Courts below suffers from any misreading of evidence and that any evidence has not been taken into consideration.

In view of the above, I do not find any illegality or irregularity in the findings recorded by the Courts below which may give rise to any substantial question of law for consideration of this Court in second appeal.

The present appeal stands dismissed.

26-07-2007

*mohinder

(HEMANT GUPTA)
JUDGE